

Application No. 09/634,252
DRAFT Amendment After Final dated 30 Oct 2003

2862-US

REMARKS

These remarks are in response to the Final Office Action mailed May 29, 2003.

Applicant thanks the Examiner for the indication of allowability of claims 15-16, 21-23, 30-32, 38, 40, 42, and 44-49, and for extending the courtesy of an interview.

Claims 34-36 have been canceled without prejudice to Applicant's right to prosecute the canceled subject matter in any divisional, continuation, continuation-in-part, or other application; and new claim 50 has been added. Support for new claim 50 can be found in the claims as originally filed and in the specification, for example at page 15, first paragraph. No new matter is believed to have been added. These amendments to the claims are believed to place this application in condition for allowance.

I. REJECTION UNDER 35 U.S.C. §101 and §112, First Paragraph

Claims 34 and 35 were rejected under 35 U.S.C. §101 and §112, first paragraph, on the basis that these claims allegedly lack patentable utility, and that one skilled in the art would therefore not know how to use the invention. While Applicant does not accede to the basis for the rejection, claims 34 and 35 have been canceled, rendering the rejection moot. Applicant respectfully requests that the rejection of claims 34 and 35 under 35 U.S.C. §101 and §112, first paragraph, be withdrawn.

II. REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH

Claims 34-36 were rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. While Applicant does not accede to the basis for the rejection, claims 34-36 have been canceled, rendering the rejection moot. Applicant respectfully requests that the rejection of claims 34-36 under 35 U.S.C. §101 and §112, first paragraph, be withdrawn.

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Claims 34-36 were also rejected under 35 U.S.C. §112, first paragraph because the specification, while being enabling for preparation of nucleic acid sequences encoding fragments of SEQ ID NO:4 having disintegrin activity and such an encoded fragment of SEQ ID NO:4, allegedly does not reasonably provide enablement for preparation of nucleic acid sequence encoding a polypeptide having an amino acid sequence that diverges, by virtue of amino acid substitutions, deletions and insertions, from that of SEQ ID NO:4. While Applicant does not accede to the basis for the rejection, claims 34-36 have been canceled, rendering the rejection moot. Applicant respectfully requests that the rejection of claims 34-36 under 35 U.S.C. §101 and §112, first paragraph, be withdrawn.

Should the Examiner have any questions, or believes that a teleconference would be helpful to clarify prosecution or to advance the present application to allowance, the Examiner is invited to call the undersigned attorney at (206) 265-4071.

The Examiner is authorized to charge any required fees or credit any overpayments to Deposit Account Number 09-0089.

Respectfully submitted,

 (DRAFT)

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